



INTERIOR BOARD OF INDIAN APPEALS

Estate of Peter Feather Earring Cleveland

6 IBIA 118 (07/15/1977)

Denying reconsideration of:
6 IBIA 44



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

ESTATE OF PETER FEATHER EARRING CLEVELAND

IBIA 77-8 (Supp.)

Decided July 15, 1977

Petition for reconsideration.

Denied

1. Indian Probate: Reconsideration: Generally

Indian probate regulations do not contain any provisions for reconsideration of a matter which has been finally determined by the Secretary of the Interior, yet he has the inherent power to reopen and review administrative determinations when some new factors such as newly discovered evidence or fraud are involved.

APPEARANCES: Montana Legal Services Association, by John R. Hunt, Esq., for Petitioner, Edith Feather Earring Graybull.

ORDER

Edith Feather Earring Graybull, by and through counsel on July 5, 1977, petitioned for reconsideration of the Board's decision of March 30, 1977, contending among other things that:

- 1) The decision was not supported by substantial and competent evidence.
- 2) The decision violated the Petitioner's constitutional due process rights.
- 3) The petition for reopening in this matter previously granted did not give sufficient notice that the excuse for delay was based upon the health and age of Grover Cleveland to allow Edith Feather Earring Graybull ample time to prepare a defense.

There is no further appeal within the Department from a final decision. The March 30, 1977 decision of the Board in this matter was a final decision. Any further appeal would be to the Federal Courts.

[1] The Secretary of the Interior has inherent power to reopen, reconsider and review administrative determinations purporting to dispose finally of Departmental proceedings when some factor, such as newly discovered evidence or fraud, is brought to his attention.

No new evidence has been submitted by the Petitioner that would tend to affect the final decision of March 30, 1977.

We find the contentions included in the petition for reconsideration to be without merit.

NOW, THEREFORE, by virtue of the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, IT IS ORDERED that the Petition for Reconsideration, dated July 15, 1977, be and the same is DENIED.

//original signed

Mitchell J. Sabagh
Administrative Judge

I concur:

//original signed

Alexander H. Wilson
Chief Administrative Judge